

OGC Has Reviewed

14 September 1955

MEMORANDUM FOR THE RECORD

SUBJECT: Possible Conflicts Between CIA Career Service Plan and Statutory Rights of Veterans

25X1A9a 1. This morning I attended a meeting in the office of
25X1A9a [redacted] of Personnel, which was also attended by
[redacted] Chief, Selection Staff, and [redacted] 25X1A9a
[redacted] office. [redacted] was also 25X1A9a
present for part of the meeting.

25X1A 2. The purpose of the meeting was to consider my memorandum of 6 September on this same subject, the necessary revisions of [redacted] to conform thereto, and the general problem of considering necessary steps in Career Service regulations and policy to ensure no violation of the statutory rights of veterans.

3. I suggested that the regulation be revised so that restored veterans will get full credit for their military service, and this suggestion was accepted. It was pointed out that a restored veteran, part of whose military service was spent on detail to CIA, would fall under both this mandatory provision and the permissive provision under which the Selection Board may give credit for service detailed to CIA. It was agreed that in such a case, the mandatory provision would naturally prevail.

25X1A9a 4. [redacted] and I reviewed for the others our conversations with the Civil Service Commission, pointing out that a violation of the veterans' rights could be accomplished by policy as well as by regulation, and that, therefore, it was essential that the practice in selection should accord with the spirit of veterans' preference legislation.

5. As an example of the sort of situation contemplated in the preceding paragraph, personnel are not infrequently instructed that although they meet ^{the} eligibility criterion, they fall short of the other selection criteria, and that as a result, consideration for selection must be deferred. I strongly recommend that in such cases a "time certain" either by date or by specification of a period, be set in the letter informing the individual of selection deferment. If an individual is informed that his selection has

~~SECRET~~

been deferred but is given no idea as to when he will again be considered, he is helpless. If his application has been returned, he does not know when he may re-submit it with some hope of success. If it has not been returned, there is no action he may take until the Board chooses to move. I particularly cautioned that if he is a veteran, the date for reconsideration should not be set so as to coincide with the date on which he will complete three years of civilian service with the Agency. Our discussions with the Civil Service Commission, however, indicate that there would be no objection to our deferring consideration of an individual who has in our opinion completed inadequate service under CIA purview to permit adequate evaluation under selection criteria. Deferment of selection, then, is acceptable so long as the grounds for deferment are reasonable and applied to veterans and non-veterans alike. As a factual matter, this may result in our accepting a few restored veterans into the Career Staff with less than three years civilian service, but it does not require us to accept a man with thirty days civilian service unless we have good reason to believe that he is Career caliber.

25X1A9a

6. [REDACTED] raised the question of retention during reduction in force, and I expressed the following views:

Under each of the Civil Service retention classes (A-1, A-2, B-1 and B-2) I believe we can establish two categories-- Career Service and all others. I then believe that we can, e.g., retain B-2 Career people in preference to B-2 non-Career people, and so on. The justification for this would seem to lie in the application of the concept of "competing levels". We would seem to have a strong argument that Career and non-Career people are not in the same competing level since, even though they may be doing comparable jobs at Headquarters, the non-Career people are not of equivalent all-round value to the Agency.

It would possibly be legal, in a RIF situation, to avoid the application of the Veterans' Preference Act by basing discharges on the Director's special authority, under Section 102(c) of the National Security Act of 1947, to terminate personnel "in the interests of the United States . . . notwithstanding . . . the provisions of any other law." Although this authority is not in terms restricted to "security cases", it is important to note that it was granted in a policy and legislative context involving security considerations. Therefore, this is not a question entirely free of legal doubt, and there are strong arguments of policy and propriety against the use of this authority except in cases where security is a pertinent and substantial factor.

~~SECRET~~

~~SECRET~~

25X1A9a

7. [REDACTED] expressed a desire that I be present at a Career Council meeting to be held on 23 September and will notify me of the exact time and place. He wishes me to discuss at that time any of the points discussed today upon which the Council requires detail. Prior to that meeting, he will make available to me specimens of the findings of the Selection Board. This is so that I may determine if deferment cases fall into standard categories and suggest phrasing which might be used in each category to defer selection within a time certain.

8. This memorandum, my memorandum of 6 September, and other papers which may result from these discussions will be filed appropriately in the subject file of the Office of General Counsel.

25X1A9a

[REDACTED]
Office of General Counsel